73 **S.B. CIVIL MISC. APPEAL NO.825/2007.**
Gopal Lal Vs. N.I.C. & Ors.

Date of Order :: 26th February 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Manish Pitaliya, for the appellant.

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Having heard learned counsel for the appellant and having perused the award impugned, this Court is satisfied that this appeal for enhancement remains bereft of substance and does not merit admission.

For awarding compensation to the injured claimant Gopal Lal, the Tribunal has noticed the assertion of the claimant that he was 41 years in age, was earning Rs.9,000/- per month while working as Supervisor (Packing Plant) at Aditya Cement Factory, Sambhupura, Chittorgarh; that in the accident he suffered fracture on his right leg, left wrist and on his jaw and teeth; that he spent about Rs.2,00,000/- on his treatment; that he was required to take leave for three months and 11 days while on treatment; that his wife was required to take leave for two months for attending on him. The Tribunal has also noticed from the X-ray report (Ex.12) that the claimant sustained injuries on right femur bone and right tibia and fibula bones; and from the disablement certificate (Ex.13) that he was unable to sit crossed-legs, was suffering difficulty in walking; was limping and his right leg was shortened by two inches leading to 17% disablement.

The Tribunal has found the claimant having spent Rs.61,919/- on treatment and has allowed Rs.62,000/- on that count. The Tribunal has further found the claimant having remained on leave for total 117 days and taking his salary at Rs.7,353/-, has allowed loss of income for three months at Rs.22,000/-. The Tribunal has further allowed Rs.6,000/- towards attendants during the treatment. After, thus, assessing Rs.90,000/- towards pecuniary loss, the Tribunal has proceeded to allow Rs.70,000/- to the claimant towards non-pecuniary loss and made the award of compensation in the sum of Rs.1,60,000/-.

Learned counsel submitted that the Tribunal has erred in not allowing adequate amount towards pecuniary loss though the salary of the victim was about Rs.8,838/- per month as shown by the Slips (Ex.17 & Ex.18); that the Tribunal has erred in not providing adequate compensation towards future loss though the statements of the claimant have remained unrebutted; that the claimant-appellant had undergone two operations at Ahmedabad and the aspect of excessive expenditure on treatment and transportation has not been considered; and that despite noticing shortening of leg by two inches, the Tribunal has not awarded adequate compensation in that relation. The submissions are entirely meritless.

It is true that the claimant-appellant had been shown to have sustained fracture injuries on his right leg but then, the

Tribunal has allowed the entire amount of the bills of expenditure as produced by the claimant. It cannot be said that any other amount towards expenditure on treatment and transportation was established on record by cogent evidence and yet not allowed by the Tribunal. The amount of Rs.22,000/- allowed towards loss of earning for about three months cannot be said to be low or insufficient.

So far the other components of losses are concerned, the Tribunal has proceeded to allow Rs.70,000/- taking into consideration the fact that though there was no reduction in the income of the victim but in future he might be deprived of the field duty and might be deprived of getting some promotions or appropriate job after retirement. Such compensation in the sum of Rs.70,000/-, in the overall circumstances of this case, cannot be said to be insufficient towards so-called loss of future earning and so also the sufferings and loss of amenities of life.

In the ultimate analysis, the assessment of loss as made by the Tribunal in this case appears to be just and proper and there appears no scope for upward revision.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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